saved only a modest sum of money during the next 15 years had he survived. Whatever sum he would have saved over the 15 years must again be reduced to its lump sum equivalent here and now, and further discounted to allow for the contingency that his wife and children might have died before him; though these reducing factors would have been offset by any interest carried by the savings annually set aside.

Taking all these considerations into account, and basing on them the best estimate I can form, I am satisfied that a reasonable sum to be recoverable by the widow and two children is $35,000.

This is both a claim under section 8 of the Civil Law Ordinance for pain and suffering and loss of the expectation of life, for the benefit of the estate, and under section 7 for the benefit of the three dependants. The appropriate damages under section 8 are in my view $3,500, but this figure is merged in the higher award made under section 7.

In my judgment therefore the defendants should pay the plaintiff:—

(a) special damages $840;
(b) general damages $35,000; and
(c) costs.

As regards the general damages, they are apportioned as follows:—

(i)	the widow	$23,000;
(ii)	the son	4,000;
(iii)	the daughter	8,000.

The widow's share is to be paid to her solicitor, while the children's shares should be paid into the Post Office Savings Bank in the name of the Senior Assistant Registrar and to be paid out for their education and maintenance at his discretion, any balance remaining to be paid to each of them when he or she attains the age of 21.

Order accordingly.

Solicitors: *Bannon & Bailey; Lovelace & Hastings.*

Re HUSSEIN BIN ONN

[O.C.J. (Thomson C.J.) April 10, 1962]

[K.L. — Petition for Admission No. 29 of 1961]

Advocate and Solicitor — Period of instruction in local office commenced before call to English Bar — Whether such period of instruction valid for purpose of s.5(3), Advocates and Solicitors Ordinance, 1947.

The question raised by this petition was whether a period of instruction in law in the local office of a practising advocate and solicitor of not less than seven years' standing which occurred previous to the date of the petitioner's call to the English Bar, could be reckoned in computing the period of instruction required to be undertaken by reason of the provisions of section 5(3) of the Advocates and Solicitors Ordinance, 1947.

Held: on a true interpretation of the Ordinance, only a period of instruction following call to the English Bar could be properly regarded as instruction for the purpose of section 5(3) of the Ordinance and any period of instruction prior to the date of call to the English Bar must therefore be disregarded.

PETITION FOR ADMISSION.

The following facts are taken from the judgment: The petitioner obtained a conditional pass in his Final Examination for call to the Bar in September 1960. He returned to Malaya, which is his home, and on November 16, 1960, commenced to attend and receive instruction in law in the local office of a practising advocate and solicitor of not less than seven years' standing. In May, 1961, he passed his Final Examination and on June 27, 1961, he was called to the English Bar by the Honourable Society of Lincoln's Inn.

On August 3, 1961, he presented his petition for admission and posted the necessary notices. On September 9, 1961, he passed his local examination under section 7(1) of the Advocates and Solicitors Ordinance, 1947, and on March 2, 1962 his petition came on for hearing before the learned Chief Justice. The hearing was adjourned until March 16 when the learned Chief Justice heard counsel and reserved judgment.

R. R. Chelliah for the petitioner.

Raja Abdul Aziz (Federal Counsel) for the Attorney-General.

Zain Azhari for the Bar Council, Federation of Malaya.

Robert K. C. Hoh for the local Bar Committee.

Cur. Adv. Vult.

Thomson C.J.: This is a petition under the provisions of the Advocates and Solicitors Ordinance, 1947, to be admitted and enrolled as an advocate and solicitor.

[His Lordship stated the facts as summarised above and continued:]

The petition is opposed by the Bar Council and the Selangor Bar Committee on the ground that the petitioner has not read in chambers locally for a sufficient time.

It is common ground that he has in fact read in chambers for over 12 months, that is to say since 16th November, 1960. It is his contention that the whole of that period should be taken into account for purposes of the Ordinance. For the Bar Council and the Bar Committee it is said that so much of that period as was prior to his call to the English Bar must be disregarded and that therefore he will not have completed the prescribed period of twelve months until 26th June, 1962.

The Advocates and Solicitors Ordinance provides for two ways in which persons can be admitted to practise as advocates and solicitors.

The first of these, which is set out in sections 9 to 23 of the Ordinance, provides for persons entering into articles of clerkship and sitting examinations and in due course after three or five years being admitted. This is very similar to the way in which solicitors in England become qualified to practise and one would have expected that here it should be the normal method of entry to the profession. Curiously, however, the pro-

visions in question have become practically a dead letter and I think I am right in saying that within living memory only one person has become qualified by reason of them.

The other method of approach is provided for by sections 4 to 8 of the Ordinance. Until a few months ago these provisions applied only to persons who had obtained professional qualifications elsewhere but they now also apply to Bachelors of Laws of the University of Malaya. Such persons are called in the Ordinance "qualified persons" and the definition of such persons contained in section 2 includes *inter alia* persons who are Barristers-at-Law of England.

Briefly, the relevant provisions of the Ordinance may be summarised as follows. By section 4(1) a court may admit and enrol as an advocate and solicitor "any qualified person". Section 5 provides that every qualified person who applies to be admitted must do so by petition. Section 5(3) provides that before any order can be made by the court on such a petition the petitioner, unless he be a practitioner admitted in Singapore, must have continuously attended and received instruction in law in this country in the office of a practising practitioner of not less than seven years' standing here for one of certain prescribed periods. If the petitioner is an English or a Scottish solicitor the period is six months. If the petitioner is an English barrister or a Scottish advocate or a local University graduate who has in each case read in chambers in England or Scotland for a period of not less than six months the period is six months or if he has read in chambers for less than six months elsewhere then the period is twelve months less the period he has already been a pupil or read in chambers. In such cases where a petitioner has obtained a certificate issued by the Council of Legal Education that he has satisfactorily completed the Council's Post Final Practical Course or a certificate issued by the University of Malaya that he has satisfactorily completed the Post-graduate Course of instruction organised by the University he is to be treated in this connection as if he had been a pupil or read in chambers in England or Scotland for a period of six months. In all other cases the prescribed period is twelve months.

Sub-section (5) provides that in certain circumstances the court may shorten or dispense with any of the periods mentioned in sub-section (3). In the present case, however, I am not asked to exercise that power. The petition has been presented and argued on the basis that in the petitioner's case the required period is twelve months, that he has in fact read for twelve months and that, the other requirements of the Ordinance having been fulfilled, he is entitled to be admitted.

For the Bar Council it has been argued that the period of reading can only run from the time the petitioner is entitled to present his petition which is the date on which he becomes a qualified person within the meaning of the Ordinance.

The argument for the petitioner, shortly, is based on a literal construction of section 5. Sub-section (3) says that before an order can be made on a petition the petitioner shall have received instruction for the prescribed period and the section is silent as to when that period is to begin and when it is to end. Therefore, provided there has been a period of instruction of the prescribed length the requirements of the section are satisfied irrespective of whether part or the whole of the period is prior to the date on which the petitioner becomes a qualified person. On the other hand, the argument is that all the sections which are subsequent to section 4 and which come under the heading "Admission and Enrolment of Qualified Persons" are governed by section 4 which makes it clear that apart from articled clerks only a qualified person can become a petitioner and by the terms of the heading which refers in terms to "qualified persons". So, it is said, section 5 must be read with exclusive reference to qualified persons and the period of reading required by sub-section (3) of that section must be a period of reading by a qualified person which would *ex hypothesi* exclude any period of reading during which the person in question was not a qualified person as defined by the Ordinance.

For myself I find those arguments so evenly balanced that did the matter rest there I should find it difficult to decide between them.

It does not rest there, however. And I think the decisive factor is to be found in section 6. That section, which deals with the steps to be taken prior to the hearing of a petition, provides for the lodging with the Registrar of various necessary certificates. It then goes on, in sub-section (1)(b), to require the filing of a declaration to be made by the petitioner. The form of that declaration is set out in Schedule II and it is called Form A. In the first three paragraphs of it the petitioner is required to declare certain facts as to his professional qualifications. In paragraph 4 he is required to make a declaration as to his residence. Paragraph 5 deals with matters that have occurred "since the date of my call (or admission)". Here it is clear that "call" refers to a call to the English or Scottish Bar and "admission" refers to admission as a solicitor in England or Scotland. These words govern the whole of the paragraph, which from beginning to end is without punctuation. One of the matters in question is set out in the following words, "I have attended the office in the Malayan Union of ..... Advocate and Solicitor practising at ..... on not less than ..... days during the period from ..... 19..... to ..... 19 ..... (and I have previously read in the Chambers of ..... a barrister of not less than seven years' standing practising at ..... in England from ..... 19..... to ..... 19.....) and I have received instruction or had experience in the branches of the law short particulars whereof are as follows:" In my view the wording of this declaration which after all is part of the Ordin-

ance, makes it abundantly clear that it was the intention of the legislature that for the purposes of admission under the Ordinance regard should only be had to reading in chambers after the date of call to the Bar or admission as a solicitor elsewhere for the applicant is not required to furnish any information as to any reading before that date.

For these reasons the present petition must be dismissed.

Petition dismissed.

ALAGAPPA CHETTIAR v. INDER SINGH

[C.A. (Thomson C.J., Hill and Good JJ.A.) April 13, 1962]

[K.L. — F.M. Civil Appeal No. 7 of 1962]

Landlord and tenant — Rent controlled premises — Death of contractual tenant — Notice to quit by landlord — Letters of administration taken out by defendant before expiry of notice to quit — Definition of "member of family" in Control of Rent Ordinance, 1956 — Whether defendant protected by this definition.

The contractual tenant of a rent-controlled premises died on December 26, 1959. On March 8, 1960 the defendant obtained letters of administration to the estate of the deceased. Subsequently a notice to quit was served upon the defendant by the landlord, the plaintiff in this case, the notice expiring on April 30, 1960. The defendant was in occupation of the premises at the time of death of the deceased tenant. He was not a member of the natural family of the deceased.

Held: the defendant was not protected by the Control of Rent Ordinance, for the definition of "member of his family" in that Ordinance does not include a legal personal representative.

Cases referred to:—

(1) *Lawrence* v. *Hartwell* [1946] 1 K.B. 553.
(2) *Harrison* v. *Hopkins* [1950] 1 K.B. 124.
(3) *Lum See On* v. *Chan Kit Yong* [1956] M.L.J. 40.

COURT OF APPEAL.

Peter Mooney for the appellant.

Chooi Mun Sou for the respondent.

Thomson C.J. (delivering oral judgment): This appeal arises from proceedings which commenced in the Sessions Court at Seremban for possession of premises at No: 137, Paul Street, Seremban, and for damages for holding over by the defendant, who is the respondent to the present appeal.

The premises are within the scope of the Control of Rent Ordinance. The plaintiff in the original proceedings, the present appellant, is the landlord and the defendant, the present respondent, is the personal representative of a deceased tenant. Whatever may have been the case at an earlier stage of the proceedings, the facts of the case are not in dispute.

The premises were originally let by the plaintiff on a monthly tenancy at a rental of $67.50 to one Dara Singh who died on 26th December, 1959. On 8th March, 1960, the present respondent, who is not a member of the natural family (and it will be clear in a moment why I use the words "natural family") of the deceased obtained letters of administration. A few days earlier notice to quit expiring on 30th April, 1960, had been served upon him by the landlord.

The only question that arose on these facts was whether the respondent was entitled to the protection of the Control of Rent Ordinance, 1956. The contractual tenancy had been terminated by notice, and if the respondent had any tenancy at all it was a statutory tenancy under the Ordinance.

[After going into the history of this case his Lordship proceeded:]

What we are considering is the effect of the Control of Rent Ordinance. That Ordinance, it has been said, was enacted to protect tenants. So it was. It did so by giving persons who had been tenants of premises certain rights of occupation of the premises which they would not have had apart from the legislation, which they would not have had by reason of their original arrangement with the landlord. What these rights are, therefore, to be looked for in one place and one place only and that is within the four walls of the Ordinance.

It is well-known that there is similar legislation in England and in Singapore.

In England it has been held that a person in the position of the present respondent, whom for convenience I shall call an administrator in possession, is within the scope of the Control of Rent legislation and that he enjoys its protection. But it is clear, *however*, from the two cases which have been cited to us, *Lawrence* v. *Hartwell* (1) and *Harrison* v. *Hopkins* (2), that the source of that protection is to be found in the wording of the English Act of 1920 and in particular the definition of "tenant" contained in paragraph (f) of section 12 of that Act. There it is said that the expression "tenant" includes "any person from time to time deriving title under the original ..... tenant .....". These words do not occur in the definition of "tenant" in our Ordinance.

Again, in Singapore, it was perhaps not decided but at the lowest accepted for the purposes of the case in *Lum See On* v. *Chan Kit Yong* (3) that an administrator in possession comes within the scope and enjoys the protection of the local Ordinance. It is to be noted, however, that the Singapore Ordinance differs from ours in that an administrator in possession can bring himself within the scope of the Singapore Ordinance by reason of the definition of "member of his family" in that Ordinance which in Singapore includes a legal personal representative. But our definition of "member of his family" does not include a legal personal representative.

I appreciate the argument put forward by counsel for the respondent that if our Ordinance were silent on the point, as he says it is, we should undertake some effort of judicial inter-